

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Con.Case(C).No. 415 of 2007(S)

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AGAINST THE JUDGEMENT/ORDER IN WPC.29980/2006 Dated 01/01/2007

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PETITIONER

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MUSTHAFFA, AGED 36,  
S/O.ABOOBAKERKUTTY, THOTTATHIL HOUSE,  
PUTHERICKAL, PARAPPANANGADI DESOM,  
MALAPPURAM DISTRICT.

BY ADV. SRI.VARGHESE C.KURIAKOSE

RESPONDENTS:

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1. MR.THARUN KUMAR I.P.S.,  
AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER  
MALAPPURAM DISTRICT, OFFICE OF THE  
SUPERINTENDENT OF POLICE, MALAPPURAM.
2. BABU K.THOMAS,  
AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER,  
S.I. OF POLICE, PARAPPANANGADI POLICE STATION.

BY GOVERNMENT PLEADER SRI.M.S. BREEZ

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR  
ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

**R. BASANT, J.**

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**C.C.C. (Civil) NO. 415 OF 2007-S**  
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**Dated this the 26<sup>th</sup> day of June, 2007**

**JUDGMENT**

The report of the learned Magistrate shows that final report has been filed along with the postal receipt to show that notice has been issued to the petitioner. The petitioner claims to have not received any such refer notice. However, the report of the learned Magistrate further shows that the court has taken steps to issue notice to the petitioner/the de facto complainant and the matter stands posted to 4/7/07 for return of notice.

2. The petitioner can appear before the learned Magistrate on 4/7/07 without waiting for the formality of receiving the notice.

3. In these circumstances, no further action is necessary in this C.C.C. and the same is dismissed as agreed by the learned counsel for the petitioner.

Sd/-

**(R. BASANT, JUDGE)**

**Nan/**

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**P.S. To Judge**

**R. BASANT, J.**

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**C.C.C. (Civil) NO. 415 OF 2007-S**  
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**Dated this the 20<sup>th</sup> day of March, 2007**

**ORDER**

Statement has been filed by the Superintendent of Police. A copy has been furnished to the learned counsel for the petitioner. The learned counsel for the petitioner submits that the then Investigating Officer allegedly contrary to an interim direction issued by this Court in W.P.(c) No.29980/06, had proceeded to submit a negative final report, a copy of which is marked as Annexure-A3 and consequently, the learned Magistrate had issued Annexure-A2 notice to the petitioner. The final report having been filed, further investigation can be conducted by the Investigating Officer only after apprising the learned Magistrate of such course and getting his formal leave. This requirement has not been satisfied, points out the learned counsel for the petitioner.

2. The learned Public Prosecutor submits that he has not taken specific instructions on that aspect. However, it having been stated categorically that further investigation is

being conducted, it must be assumed that the said requisite legal formality must have been complied with. The learned Public Prosecutor submits that the respondent – Superintendent of Police, and the present Investigator undertake that the investigation shall be completed and a requisite report shall be filed within a period of one month after taking whatever steps are necessary. The learned Public Prosecutor prays for one month's time to comply with the undertaking. I am satisfied that the said request can be allowed.

3. Call this petition again on 23/5/07 for a further report from the 1<sup>st</sup> respondent.

**Sd/-**

**(R. BASANT, JUDGE)**

**Nan/**

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P.S. to Judge